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Meeting of States Parties

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Letter dated 18 April 2016 from the Chair of the Commission on the Limits of the Continental Shelf addressed to the President of the twenty-sixth Meeting of States Parties

Introduction

1. I wish to inform you, in my capacity as Chair of the Commission on the Limits of the Continental Shelf, about the progress of work of the Commission since the twenty-fifth Meeting of States Parties, held in June 2015.

2. The Commission held its thirty-eighth, thirty-ninth and fortieth sessions at United Nations Headquarters, from 20 July to 4 September 2015, from 19 October to 4 December 2015 and from 1 February to 18 March 2016, respectively. Documents CLCS/90, CLCS/91 and CLCS/93, respectively, contain a more detailed account of the progress of work of the Commission during those sessions with regard to the submissions under active consideration by the Commission and its subcommissions. The present letter concentrates on issues that the Commission has requested me to bring to the attention of the Meeting of States Parties, given that they relate to the discharge of the mandate of the Commission under the United Nations Convention on the Law of the Sea.

Consideration of submissions and approval of recommendations

3. During the above-mentioned sessions, the Commission and its subcommissions considered the submissions made by: the Russian Federation, in respect of the Arctic Ocean (partial revised submission); Brazil, in respect of the Brazilian Southern Region (partial revised submission); Uruguay; the Cook Islands, in respect of the Manihiki Plateau; Argentina; Iceland, in respect of the Ægir Basin area and the western and southern parts of Reykjanes Ridge; Norway, in respect of Bouvetøya and Dronning Maud Land; South Africa, in respect of the mainland of the territory of the Republic of South Africa; the Federated States of Micronesia, Papua New Guinea and Solomon Islands, jointly, concerning the Ontong Java Plateau; France and South Africa, jointly, in the area of the Crozet Archipelago and the Prince Edward Islands; Kenya; Mauritius, in the region of Rodrigues Island; Nigeria; and Seychelles, in respect of the Northern Plateau Region.

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4. The Commission continued the consideration of the draft recommendations with regard to the submission made by Iceland, in respect of the Ægir Basin area and the western and southern parts of Reykjanes Ridge, and commenced the consideration of three draft recommendations submitted to it by the subcommissions, namely, those concerning the submissions made by the Cook Islands, in respect of the Manihiki Plateau, Argentina and Uruguay. At its fortieth session, the Commission approved two recommendations, with regard to the submissions made by Argentina and by Iceland, in respect of the Ægir Basin area and the western and southern parts of Reykjanes Ridge. The consideration of the recommendations with regard to the submissions made by Uruguay and the Cook Islands, in respect of the Manihiki Plateau, will continue at the forty-first session.

5. During the thirty-eighth and the fortieth sessions, the Commission heard presentations on the new or revised submissions made by the Russian Federation, in respect of the Arctic Ocean (partial revised submission); Brazil, in respect of the Brazilian Southern Region (partial revised submission); Angola; Cabo Verde, the Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal and Sierra Leone, jointly, in respect of areas in the Atlantic Ocean adjacent to the coast of West Africa; and Spain, in respect of the area west of the Canary Islands.

6. Furthermore, the Commission established new subcommissions, thus bringing the number of subcommissions actively considering submissions to 10.

7. Lastly, the Commission took note of the amendments to the submissions made by Myanmar, Mauritius, in the region of Rodrigues Island, and Somalia. In addition, an amended submission was deposited by Côte d'Ivoire after the fortieth session and its consideration will be included in the provisional agenda for the forty-first session.[1]

Workload of the Commission

8. With respect to the workload of the Commission and its working arrangements, I wish to recall that, since 2013, the Commission has held three sessions annually of 7 weeks each, for a total of 21 weeks a year, including 4 weeks of plenary meetings and 17 weeks of meetings when subcommissions worked simultaneously. This working arrangement was adopted by the Commission at its thirtieth session (CLCS/76), in response to a request of the twenty-first Meeting of States Parties (SPLOS/229), notwithstanding the fact that there was no substantive change in the working conditions of members of the Commission, compared with the previous terms of office during which they met for fewer weeks per year.

9. In particular, the Commission is aware of the interest of submitting coastal States in the advancements in its work. In this regard, during the past four years, the Commission made substantial progress in its work and in dealing with the considerable workload. Eight subcommissions completed the consideration of the submissions assigned to them; for six of these submissions, the Commission adopted recommendations. It established, or reconstituted, subcommissions for 16 new or revised submissions, which already represents a 23 per cent increase, compared with the previous term, bearing in mind that further subcommissions might be formed before the expiration of the term of office of the current Commission. The Commission is pleased to report, that, during the current term, it

[1] To be issued as CLCS/L.41.

has considered more submissions than any other Commission, in line with the analysis that led to the increased number of work weeks in New York. In addition, the previously increasing backlog of submissions in the queue, for which a subcommission has not yet been established, has begun to decrease. However, the backlog of submissions currently stands at 45, and the Commission is still faced with an immense workload in the decades ahead. In this connection, the Commission recognizes that the pace of examination of the submissions has been hampered by factors beyond its control, as outlined below.

10. In this regard, I note that, in view of the relatively large number of new members of the Commission following the 2012 election, sufficient time was required for the new members to become acquainted with the practice of the Commission and its subcommissions, as well as with the submissions then under active consideration. In addition, for the majority of its term, the Commission could not benefit from full membership, and one vacancy remains unfilled despite one by-election during the twenty-fifth Meeting of States Parties and in view of the lack of nominations for a by-election to be conducted during the resumed twenty-fifth Meeting.

11. It should also be noted that, during the current term, the Commission has dealt with voluminous submissions of considerable complexity requiring extensive deliberations at both the subcommission and the plenary levels.

12. In addition to these factors, certain trends have emerged in the practice of delegations when interacting with the subcommissions, which have had a direct impact on the amount of time required for the examination of their submissions. These have included:

(a) The frequent submission of extensive new data and information by the submitting State or amendments to the submission made by the submitting State in the course of the examination of a submission at the subcommission level;

(b) Requests by the submitting State to delay or suspend the consideration of a submission for a certain period of time to allow for the acquisition of new data and information or the conducting of additional studies;

(c) Delays in the scheduled provision of responses, data and information to subcommissions, at times communicated shortly before or after the expiration of the agreed deadlines.

13. One additional factor that has had an occasional impact is the exercise by coastal States of their right to classify material contained in the submission as confidential, pursuant to annex II to the rules of procedure of the Commission. Such a classification does not allow for the consideration of parts or all of the submission outside the premises of the Division for Ocean Affairs and the Law of the Sea and thus requires members of the subcommissions to access data and information only during regular office hours at the premises of the Division when in New York.

14. The Commission hopes that, similarly to the past terms, a number of additional recommendations will be approved towards the end of the term of office of the present members.

Conditions of service

15. In addressing the issues of the conditions of service of the Commission, I wish, on behalf of its members, to acknowledge with appreciation the work undertaken by the Meeting of States Parties, including its open-ended working group on the conditions of service of members of the Commission, and the General Assembly. These efforts have led to the recognition by the Assembly of the need of the members of the Commission for more suitable working space on the premises within the Division for Ocean Affairs and the Law of the Sea. In this connection, with regard to short-term solutions, the Commission noted with appreciation that the Assembly had requested that the Secretary-General provide cost-effective, transportable and non-structural improvements to address some of the immediate working space needs of the Commission. As far as long-term solutions are concerned, the Commission noted with appreciation that the Assembly had recognized that, owing to its exceptional character, the Commission has special requirements for its working space, including the need for additional fit-for-purpose working space, adequate technical equipment and climate control, and needs to remain located within the same premises as the Division.

16. Regarding medical insurance, I wish to recall the understanding of the Commission that reimbursement of the costs of medical travel insurance for those members who benefit from the trust fund, established pursuant to General Assembly resolution 55/7 for facilitating the participation of members of the Commission from developing countries in the meetings of the Commission, is an interim measure and that a more permanent solution will be presented in the future. I would also like to recall that the Commission has consistently reiterated that, when the conditions of service of its members are addressed, no distinction should be made between members of the Commission from developing and developed States.

17. Lastly, I wish to convey the expectation of the members of the Commission that the Meeting of States Parties will continue its deliberations with a view to satisfactorily addressing the other conditions of service, such as the loss of career opportunities and income while in New York for 21 weeks a year, visits by family members and the high cost of prolonged stays in New York, especially in relation to the effects that these conditions might have on the attendance of the members at all sessions of the Commission.[2]

Voluntary trust fund for the purpose of defraying the cost of participation of the members of the Commission from developing States in the meetings of the Commission

18. Turning to matters concerning the trust fund for the purpose of defraying the cost of participation of the members of the Commission from developing States in the meetings of the Commission, allow me first to convey the gratitude of the members of the Commission to States that have made contributions to the fund. Without these generous contributions, a number of members would not be in a position to attend the sessions of the Commission.

19. At the same time, I would like to express our great concern in view of the rapidly decreasing balance of the trust fund. Without additional contributions to be received as soon as possible, preferably during 2016, the Commission may not have

[2] See SPLOS/263, para. 77. See also SPLOS/140, annex, and SPLOS/259, paras. 25 and 26.

the required quorum to conduct its business during the remainder of its term of office if members nominated by developing States who benefit from the trust fund are absent. In practical terms, this means that the Commission may not be in a position to approve recommendations on several submissions that have been considered over an extensive period of time. Therefore, the Commission would like to express its appreciation for the call by the General Assembly for contributions to be made to the fund, and I would like to echo that call.

20. The Commission has taken note of the decision of the General Assembly to amend the terms of reference, guidelines and rules of the trust fund established for the purpose of facilitating the preparation of submissions to the Commission for developing States, in particular the least developed countries and small island developing States, and compliance with article 76 of the Convention. I would like to recall that these amendments were approved in order to assist developing States in meeting the travel and daily subsistence allowance costs associated with meeting with the Commission. This decision has certain implications for the Commission, given that it will require more advanced planning of the meetings involving delegations from developing States. The Commission, together with the Secretariat, is already taking the steps necessary to issue invitations early in order to allow for additional time required for requests for assistance from the fund to be processed.

Attendance of members and vacancy owing to the resignation of one member of the Commission

21. As mentioned above, in order to exploit the full potential of the Commission, attendance of members at the sessions of the Commission is of critical importance. In this regard, I would like to reiterate the Commission's appeal to all nominating States to support their members and their members' participation in the work of the Commission, including the attendance at sessions of the Commission in full, including through, as appropriate, making timely requests for assistance from the voluntary trust fund established to facilitate the participation of the members of the Commission from developing countries in the work of the Commission.

22. As also mentioned above, the Commission has been working for an extended period of time with only 20 members.[3] The importance of the full membership of the Commission is self-evident, given that the lack thereof has a direct impact on the efficiency in its work. The Meeting of States Parties, which elects members of the Commission, plays a key role in this regard. On behalf of the Commission, I would like to appeal to the Meeting of States Parties to take all steps necessary so that the Commission can benefit from full membership.

Other matters

23. In conclusion, allow me to address matters of a practical nature. In order to take due account of all communications addressed to the Commission, submitting States are kindly invited, during the consideration of their respective submissions, to address all communications to the Chair of the Commission or to the Chair of the relevant subcommission, as appropriate, and transmit them through the Secretariat. Should States wish to make new or revised submissions or to transmit communications relating to submissions of other States, they should address them to

[3] See CLCS/90, para. 2 and footnote 1.

the Commission through the Secretary-General. Submitting States are also invited to ensure that the Geographic Information System part of their submissions still in the queue is regularly updated in order to ensure that the Commission is able to examine these submissions with the software and other technical tools available to it once they reach the top of the queue.

(*Signed*) Lawrence Folajimi **Awosika**
Chair of the Commission on the Limits of the Continental Shelf